

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

RAFAEL A. BATISTA-RAMOS,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Civil No. 08-1085 (JAF)

**OPINION AND ORDER**

Plaintiff Rafael Batista-Ramos brings this petition under 42 U.S.C. § 405(g), asking that we reverse and set aside Defendant Commissioner of Social Security's ("Commissioner") decision not to award Plaintiff social security disability benefits or, in the alternative, remand for a rehearing. Docket No. 4. Defendant opposes. Docket Nos. 9, 12.

**I.**

**Factual and Procedural History**

We derive the following facts from the parties' filings, Docket Nos. 4, 9, 12, and the transcript of the record in this case, Docket No. 8. As Plaintiff has not filed a memorandum of law, despite our order that he do so, we resolve this case without the benefit of his legal arguments.

Plaintiff, a high-school graduate, previously worked in the construction industry. Plaintiff applied for disability benefits on February 6, 2003, alleging an inability to work beginning October 10,

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1 2002. Plaintiff claimed disability due to mental disorders and  
2 intestinal problems. The Social Security Administration ("SSA")  
3 denied the application initially and again on reconsideration. On  
4 March 26, 2004, Plaintiff requested a hearing before an  
5 Administrative Law Judge ("ALJ"), which took place on November 14,  
6 2006. On March 2, 2007, the ALJ found that Plaintiff was not disabled  
7 during the relevant time period because he remained able to perform  
8 work existing in significant numbers in the national economy.  
9 Plaintiff subsequently sought review of the ALJ's decision with the  
10 SSA Appeals Council, which declined review on November 16, 2007.

11 On January 18, 2008, Plaintiff filed the present action seeking  
12 review of the ALJ's decision or, alternatively, a remand for a de-  
13 novo hearing. Docket No. 4. Defendant filed a memorandum of law on  
14 July 14, 2008. Docket No. 12.

## 15 II.

### 16 Analysis

17 As Plaintiff has provided no legal arguments in support of his  
18 request for review, we necessarily limit our review to the question  
19 of whether substantial evidence supports the ALJ's decision.

20 The Social Security Act (the "Act") provides that "[t]he  
21 findings of the Commissioner . . . as to any fact, if supported by  
22 substantial evidence, shall be conclusive." 42 U.S.C. § 405(g). We  
23 must, therefore, uphold the decision if we determine that substantial  
24 evidence supports it, even if we do not agree or would have reached

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1 a different conclusion had we reviewed the evidence de novo. Lizotte  
2 v. Sec'y of Health & Human Servs., 654 F.2d 127, 128 (1st Cir. 1981).  
3 Substantial evidence exists "if a reasonable mind, reviewing the  
4 evidence in the record as a whole, could accept it as adequate to  
5 support [the] conclusion." Irlanda Ortiz v. Sec'y of Health & Human  
6 Servs., 955 F.2d 765, 769 (1st Cir. 1991) (internal quotation marks  
7 omitted) (quoting Rodríguez v. Sec'y of Health & Human Servs., 647  
8 F.2d 218, 222 (1st Cir. 1981)).

9 An individual is disabled under the Act if he is unable to do  
10 his previous work or, "considering his age, education, and work  
11 experience, engage in any other kind of substantial gainful work  
12 which exists in the national economy." 42 U.S.C. § 423(d). To make  
13 this determination, the ALJ must consider all of the evidence in the  
14 record. 20 C.F.R. § 404.1520(a)(3). Credibility issues and  
15 "[c]onflicts in the evidence are . . . for the [ALJ] - rather than  
16 the courts - to resolve." Evangelista v. Sec'y of Health & Human  
17 Servs., 826 F.2d 136, 141 (1st Cir. 1987).

18 We find that substantial evidence in the record supports the  
19 ALJ's decision in this case. The ALJ considered progress notes from  
20 Plaintiff's treatment at the Mario Canales Health Center from July 3,  
21 2002, through August 20, 2005, showing that Plaintiff had reported  
22 pain, vomiting, gastritis, fatigue, and shortness of breath. The  
23 evaluating internist diagnosed Plaintiff with a malingering disorder  
24 on December 20, 2004. Plaintiff underwent two gastroscopy reports

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1 with biopsies on June 15, 2004, and July 21, 2005, resulting in a  
2 diagnosis of a gastrointestinal reflux disease, a hernia, and  
3 duodenitis.

4 The ALJ also considered a psychiatric evaluation by Dr. José  
5 Luis Galarza on November 6, 2003. Dr. Galarza observed that Plaintiff  
6 was able to manage funds, could take care of his personal hygiene,  
7 and was logical, coherent, and relevant. Dr. Galarza found that  
8 Plaintiff appeared moderately depressed and diagnosed him with  
9 undifferentiated schizophrenia. Dr. Galarza stated that Plaintiff  
10 remained calm with prescribed medications.

11 In addition, the ALJ reviewed progress notes from Community  
12 Cornerstone of Puerto Rico, Inc., for treatment between January 3,  
13 2002, and August 18, 2006, which showed that Plaintiff was anxious  
14 and fidgety, but on subsequent visits was calm and cooperative. He  
15 was diagnosed with single episode major depression. Plaintiff was  
16 hospitalized on January 26, 2005, for delirium, hallucinations, and  
17 suicidal ideation, but his symptoms diminished and he became stable  
18 with treatment and medication. The ALJ also considered a neurological  
19 evaluation by Dr. Mayra Vera on April 10, 2006, which revealed no  
20 significant abnormalities.

21 The ALJ took into consideration the State Agency psychologists  
22 and psychiatrists' evaluation of the record which found Plaintiff's  
23 mental functional capacity to be, at worst, moderately limited in  
24 eleven out of twenty categories, not significantly limited in eight

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1 categories, and markedly limited only in his ability to carry out  
2 detailed instructions.

3 Finally, the ALJ also considered Plaintiff's testimony and  
4 behavior at the hearing, and concluded that while the medical  
5 evidence supported the symptoms alleged, the intensity, persistence,  
6 and limiting effects alleged by Plaintiff were not credible. The ALJ  
7 noted that there was nothing in the record indicating that Plaintiff  
8 was disabled or had significant functional limitations.

9 The ALJ concluded that Plaintiff's condition limited his ability  
10 to perform his past relevant work as a construction worker, but that  
11 considering his age, education, work experience, residual functional  
12 capacity, and all relevant symptoms, work existed in significant  
13 numbers in the national economy that Plaintiff could perform. As  
14 examples, the ALJ listed jobs such as surveillance system monitor,  
15 call out operator, and charge account clerk. As a result, the ALJ  
16 found Plaintiff to be not disabled.

17 In light of the evidence in the record, the ALJ was justified in  
18 reaching his conclusion that Plaintiff could perform work at all  
19 physical exertional levels and that there were a significant number  
20 of jobs available in the national economy that he could perform with  
21 his emotional limitations. We find no evidence in the record  
22 suggesting that Plaintiff was unable to perform such work; to the  
23 contrary, substantial evidence supports a finding that he was not  
24 disabled.

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1 **III.**

2 **Conclusion**

3 In accordance with the foregoing, we find that the ALJ's  
4 disability determination was based on substantial evidence in the  
5 record and from the hearing. See 42 U.S.C. § 405(g). Consequently, we  
6 hereby **AFFIRM** the Commissioner's determination and **DENY** Plaintiff's  
7 petition, Docket No. 4.

8 **IT IS SO ORDERED.**

9 San Juan, Puerto Rico, this 30<sup>th</sup> day of March, 2009.

10 s/José Antonio Fusté  
11 JOSE ANTONIO FUSTE  
12 Chief U.S. District Judge